

REMARKS

Reconsideration and allowance of this application are respectfully requested. Claims 35-43 and 45-57 are cancelled. Claims 1-34, 44, and 58-61 remain in this application and are submitted for the Examiner's reconsideration.

In the Office Action, claims 1-34, 44, and 58-61 were again rejected under 35 U.S.C. § 102(b) as being anticipated by Walker (U.S. Patent No. 5,794,207). Applicant submits that the claims are patentably distinguishable over the relied on sections of Walker.

I. The relied on sections of Walker do not disclose or suggest a buying order for a right of use and do not disclose or suggest a buying condition for a right of use.

The relied on sections of Walker merely describe offers to buy actual goods and actual services, searching for purchase offers for actual goods and actual services, and acceptance of such purchase offers for actual goods and actual services. (See Abstract 11.2-12, Fig.5 Steps 510 and 520, col.8 11.46-52, col.16 11.5-7, and col.20 11.33-43.) Such sections are not concerned with an offer to buy a right of use, are not concerned with searching for an offer to buy a right of use, and are not concerned with acceptance of an offer to buy a right of use.

II. The relied on sections of Walker do not disclose or suggest a right of use of encrypted content digital data.

Rather, such sections of Walker just describe that a seller may transfer to a buyer (i) physical goods, such as cars, jewelry, computer equipment, etc., as well as (ii) digital goods, such as documents, tickets, access codes, etc. (See Fig.12 and col.20 11.30-40.) These sections are not concerned with content digital data.

III. The relied on sections of Walker do not disclose or suggest validation period data indicating a period in which an encryption key may be used.

Rather, these sections simply describe an expiration date for a conditional purchase offer (CPO). (See Fig.5 Step 540 and col.7 ll.46-47). Further, though such sections of the reference describe encryption and decryption of a seller response using a key, the sections do not describe an expiration date for such a key. (See Figs.14-16 and col.24 l.24 - col.25 l.34.) Therefore, the relied on sections of the reference are not concerned with a period in which an encryption key may be used and are not concerned with validation period data indicating such a period.

IV. The relied on sections of Walker do not disclose or suggest limit period data indicating a period in which encrypted digital data may be reproduced.

As noted above, such sections of Walker merely describe (i) an expiration date for a conditional purchase offer and (ii) encryption and decryption of a seller response using a key without describing an expiration date for such a key. Hence, these are not concerned with a period in which encrypted digital data may be reproduced and are not concerned with limit period data indicating such a period.

V. The Response to Arguments does not conform with the requirements of M.P.E.P. § 707.07(f).

In the present Office Action, the Response to Arguments does not address the arguments set forth in the July 7, 2009 Amendment. Rather, the Response simply repeats the wording of claim 1 together with a reiteration of the sections of Walker identified in Item 6 of the Office Action. (See Item 47 of Office Action at pgs.14-15.) However, M.P.E.P. § 707.07(f) requires that "[t]he examiner must address all arguments which have not already

been responded to in the statement of the rejection" and "provide explanation as to non-persuasiveness." (Emphasis added.)

Applicant respectfully requests that the Examiner respond in the manner mandated above by the M.P.E.P.

VI. Summation.

Therefore, the relied on sections of Walker neither disclose nor suggest:

receiving buying request data representing a buying order and a buying condition for the right of use of the encrypted content digital data, the buying request data being transmitted through the communication network;

receiving selling request data representing a selling request and a selling condition for the right of use of the encrypted content digital data, the selling request data being transmitted through the communication network;

deciding a transaction price for the right of use of the content digital data corresponding to the received buying request data and the received selling request data; and

...;

wherein the encrypted content digital data are converted into usable data by a decryption process performed in accordance with auxiliary digital data corresponding to the content digital data, and the auxiliary digital data includes validation period data indicating a period in which the encryption key may be used and limit period data indicating a period in which the encrypted content digital data may be reproduced

(emphasis added) as called for in claim 1.

It follows, for at least the above reasons, that the relied on sections of Walker do not disclose or suggest the combination defined in claim 1 and therefore do not anticipate the claim.

Independent claim 44 recites features similar to those set out in the above excerpt of claim 1 and is therefore patentably

distinguishable over the relied on sections of Walker for at least the reasons set out above.

Claims 34, 44, and 58-59 depend from claim 1, and claims 60-61 depend from claim 44. Therefore, each of these claims is distinguishable over the relied on sections of Walker at least for the same reasons as its parent claim.

Accordingly, Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 102(b).

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: December 30, 2009

Respectfully submitted,
Electronic signature: /Lawrence
E. Russ/
Lawrence E. Russ
Registration No.: 35,342
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant

1097525_1.DOC